

DECLARATION OF ON EDWARD O'LEARY

I, Edward O'Leary, under penalty of perjury, declare and state, to the best of my knowledge, information and belief, as follows:

1. I am over the age of 18, have personal knowledge of the facts and events referred to in this declaration and am competent to testify to the matters stated below.

2. I live in East Bridgewater, Massachusetts, where I have owned On Target Training since 1998. I am a lifelong resident of the Commonwealth of Massachusetts, and I served as a police officer for 32 years, retiring in 2012. I was also an adjunct professor in criminal justice, constitutional law, evidence, and other subjects at Massasoit Community College and Anna Maria College. I am also an NRA certified firearms instructor.

3. On Target Training is a family-owned retail gun store and training facility. I am the sole owner, and my wife and daughter are employees. On Target Training is a federal firearm licensed dealer. It is also licensed in Massachusetts to perform services as a gunsmith, to sell, rent or lease firearms, rifles, shotguns or machine guns, and to sell ammunition.

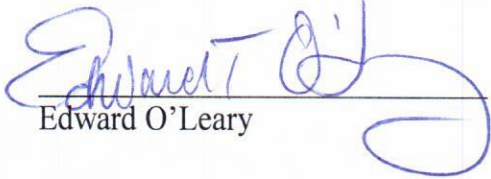
4. In addition to selling ammunition, holsters, safety glasses, ear protection, and cleaning supplies, On Target Training engages in the sale of firearms. We sell handguns, shotguns, and rifles. Until the effective date of the Notice of Enforcement, On Target Training sold firearms that may be banned under the tests set forth in the Notice of Enforcement. On Target Training intends to and, but for the credible threat of prosecution under the Notice of Enforcement and G. L. c. 140 § 121 & 131M, would continue to sell these constitutionally protected firearms and magazines. Before Attorney General Healey issued the Notice of Enforcement, On Target was never informed that its transfers were or may have been illegal. At no time was any action taken

against it by any law enforcement agency to halt or prevent these transactions; Defendants instead approved them. On Target relied upon this approval and believed it was engaging in legal activity.

5. My company suffers ongoing economic harm because it can no longer sell these constitutionally protected firearms and magazines. On Target Training is losing money. On Target Training suffers further harm because of the vagueness of the Notice of Enforcement, which prevents me from knowing what firearms I can lawfully sell. Accordingly, there are a number of rifles I would sell but cannot because I either cannot sell them or I cannot be certain if I can lawfully sell them and fear prosecution if I attempt to sell them. Rifle sales have almost completely ceased. Sales of large capacity magazines are also down about 50% since the enactment of the Notice of Enforcement, and ammunition sales are also down significantly since the enactment of the Notice of Enforcement.

6. I also fear that my transactions involving firearms that may be banned under the tests set forth in the Notice of Enforcement may be retroactively criminalized, even though they were commonly understood to be lawful and accepted at the time, and even though the State of Massachusetts recorded and approved of each such transaction. The Notice of Enforcement has cast aside decades of common practice and presumptively legal conduct, and declared that dealers like me had conducted hundreds if not thousands of transactions that were illegal under Massachusetts law at the time they were made. Attorney General Healey's refusal to state that transfers that occurred in the past were legal at the time they occurred has clarified the State's position on this. Her statement that "[t]he Guidance will not be applied to future possession, ownership or transfer of Assault weapons by dealers, provided that the dealer has written evidence that the weapons were transferred to the dealer in the Commonwealth prior to July 20, 2016, and provided further that a transfer made after July 20, 2016, if any, is made to persons or businesses

in states where such weapons are legal” provides no guarantee that my then-legal transfers are not now retroactively illegal. If these transactions are deemed illegal, I could be in violation of federal law and, at a minimum, could lose my federal firearms license and other firearms-related licenses.


Edward O'Leary

12/12/2017
Date